

# CALIFORNIA ACUPUNCTURE BOARD

1424 Howe Avenue, Suite 37, Sacramento, CA 95825-3233

Phone: (800) 952-5210 / (916) 263-2680 / Fax: (916) 263 -2654

E-mail: acupuncture@dca.ca.gov Web: www.acupuncture.ca.gov

State of California  
Department of Consumer Affairs  
Gray Davis, Governor



(Approved September 25, 2002)

## ACUPUNCTURE BOARD MEETING MINUTES

**June 24-25, 2002**

The Sportsmen's Lodge Hotel  
12825 Ventura Boulevard  
Studio City, California 91604

**Monday, June 24, 2002  
8:30 AM – 5:00 PM**

### **MEMBERS PRESENT**

Pei Li Zhong-Fong, L.Ac., Chair  
Michael Eng, Vice Chair  
Shari Asplund  
Joan C. Chang, L.Ac.  
Howard Moffet, L.Ac.  
Min M. Chang

### **STAFF PRESENT**

Marilyn Nielsen, Executive Officer  
Don Chang, Legal Counsel  
Janelle Wedge, Administrative Coordinator  
Nancy Molinar, Education Coordinator  
Christie Dohring, Examination Coordinator  
Kerry Hartsough, Enforcement Coordinator  
Helen Gathercole, Administrative Technician

### **MEMBERS ABSENT**

Justin Tin, D.D.S.

### **GUEST LIST ON FILE**

#### **1. Call to Order and Establishment of a Quorum (P. Zhong-Fong, Chair)**

Pei Li Zhong-Fong called the Acupuncture Board meeting to order at approximately 8:45 a.m., roll was taken and a quorum established.

#### **2. CLOSED SESSION:** Pursuant to Government Code Section 11126 (c)(3) to discuss/take action on disciplinary actions.

#### **3. Sunset Review & SB 1951 – Joint Legislative Sunset Review Committee**

Ms. Nielsen reported a letter was submitted to Senator Figueroa regarding the Board's action on SB 1951 to "support if amended", requesting the Joint Committee's consideration of the amendments to the two areas of concern, B&P Code Section 4934.1(a) to not name specific local or national organizations for the exam or schools approval process, and Section 4934.1(b) to amend with clarifying language which permits the Board to proceed on items to be reviewed by the consultant during the duration of the comprehensive analysis. On June 5, 2002, Pei Li Zhong-Fong, Chair, Michael Eng, Vice-Chair and Ms. Nielsen met with Senator Figueroa and Assemblyman Correa to discuss the Board's position. Ms. Nielsen continued to report, SB 1951 was heard on June 18, 2002, in Assembly B& P Committee, where she testified on the Board's "support if amended" position. In addition the Council of College's lobbyist also testified in support and four professional representatives testified as opposing unless amended position. Ms. Nielsen noted Committee members questioned Senator Figueroa as to why the Board's or profession's concerns raised were not addressed or being considered in the bill's language. The main issue of discussion was the selection process and neutrality of the consultant to perform the analysis of the four issues. During the hearing, Assemblyman Wyman proposed the bill be

amended to designate the Little Hoover Commission as a neutral government agency to perform the analysis. Senator Figueroa was questioned regarding the relationship between AB 1943 and SB 1951, whether there is a conflict, and which bill would take precedence over the other if they both passed? Ms. Nielsen reported that Senator Figueroa stated the bills would not be in conflict and each bill would take precedence. The bill was placed on call but re-discussed later and Senator Figueroa accepted the amendments to designate the Little Hoover Commission as the agency and neutral body to conduct the comprehensive analysis, and the bill passed the Committee. Ms. Nielsen explained the Little Hoover Commission was created in 1962 as an independent state oversight agency. The Commission's mission is to investigate state government and through reports, recommendations and legislative proposals, to promote efficiency, economy and improve service. The Commission is a general fund, independent, bipartisan agency. Studies take anywhere from three months to twelve months to complete. Ms. Nielsen requested the Board continue to give the executive officer directives on these issues currently pending. The Board expressed concerns regarding the function of the Board for the next couple of years and the perception that the issues will be resolved. Ms. Asplund had concerns for the Joint Committee's lack of response to the numerous requests to carry the Board's enforcement legislative proposals and if there would be time to seek another author. Ms. Nielsen has requested a response from Senator Figueroa's office as to whether or not SB 1951 was going to be amended with the enforcement proposals. Ms. Nielsen indicated that if Joint Committee was not going to amend the bill with the language, other Legislators have expressed their willingness to amend one of their bills.

**MICHAEL ENG MOVED AND JOAN CHANG SECOND THE MOTION TO DIRECT THE EXECUTIVE OFFICER TO COMMUNICATE THE BOARD'S CONCERNS TO THE JOINT COMMITTEE THAT THE BOARD'S ENFORCEMENT LEGISLATIVE PROPOSALS HAVE NOT BEEN AMENDED INTO A LEGISLATIVE BILL AS THEY HAVE COMMITTED TO DO; TO REQUEST THE JOINT COMMITTEE TO NOTIFY THE BOARD BY JUNE 28, 2002 AS TO THE JOINT COMMITTEE'S INTENTION TO INCORPORATE THE ENFORCEMENT LEGISLATIVE PROPOSALS TO SB 1951, AND IF NOT, THE BOARD WOULD RESPECTFULLY BE REQUIRED TO CONSIDER ANOTHER AUTHOR.**

**AYES: PEI LI ZHONG-FONG, MICHAEL ENG,  
SHARI ASPLUND, HOWARD MOFFET  
MIN CHANG, JOAN CHANG**

**NOES: NONE**

**ABSENT: JUSTIN TIN**

**MOTION PASSED**

Ms. Nielsen reported that during the break she spoke with Ms. Triepke, Consultant to the Joint Committee, who assured the Board that SB 1951 would be amended with the Board's enforcement legislation if SB 1951 passed the Assembly Health Committee scheduled for later today.

#### **4. Enforcement Business – (Discussion/Action)**

##### **a. Current Enforcement Cases**

Kerry Hartsough, Enforcement Coordinator reported briefly that thirty-three new complaints were forwarded to the Division of Investigation (DOI) for formal investigations, fifty-four complaints opened prior to July 2001 are pending in-house, twenty-six investigations opened prior to July 2001 are currently pending with DOI, thirty-one are open disciplinary cases (i.e.,

accusations pending/filed, petitions, FY hold, etc.), twelve are open probation cases and one hundred twenty-nine complaint and twenty-one disciplinary cases have been closed since July 1, 2001. Mr. Eng asked how does the budget impact the inability to proceed with Attorney General cases and when can the cases begin to be referred to the AG's office? Ms Hartsough reported cases regarding patient harm are still being enforced and that the Board will hold new cases in-house until July 1, 2002.

**b. Presentation by Marilyn Allen, American Acupuncture Council regarding Ethics and Practice Management Courses for Probationers**

Marilyn Allen, American Acupuncture Council's Director of Marketing, presented the Board with a packet with a detailed description of the Council's Code of Ethics for Licensed Acupuncturists. Ms. Allen indicated she teaches ethics and believes the majority of schools teach twenty to thirty hours with laws and regulations as the basis. She had concerns for the increase in cases such as fraud which is subject to disciplinary action and fines, privacy such as maintenance of records, and complaints for malpractice are not reported to the Board, but kept within the insurance companies, and sexual propriety/sexual misconduct. Ms. Allen reported for the last three years that the Acupuncture Alliance has been working on an ethics committee and defining ethical behavior for practitioners, and that Maryland is the first State to adopt a Code of Ethics, a copy of which she will forward to the Board. She expressed concerns that practitioners are coming from other areas outside the United States with their own values and ethics. She believes it is important to teach our country's ethical and moral values, which provide the necessary protection for public safety, especially if they plan to practice in the medical field. Ms. Allen suggested the Board consider requiring ethical training classes either in continuing education or probationary classes, because the number of cases is increasing, and more money is being spent on enforcement issues. She stated there is limited alternative ethical education. Another good resource would be to encourage the practitioner to provide the Board's new Consumer's Guide to Acupuncture and Oriental Medicine to their patients. In conclusion, Ms. Allen strongly felt the importance of education and communication to get the ethics understood, although the profession is young and challenged, it is progressing well. Mr. Eng asked, if sexual impropriety was not an ethics issue, but a criminal issue and is sexual impropriety a subject for teaching ethics? Ms. Allen replied that it is an ethics issue, and falls usually under the criminal issues and yes this is taught, and gave a brief example of common violations committed by the profession. She further explained without the proper education the acupuncturist will continue to practice in ignorance of the Code of Ethics. Discussions surfaced regarding B&P Code, Section 119(f), which defines it is a misdemeanor for a licensee to photocopy their license. Staff was directed to evaluate the issue and draft a letter to schools, herb companies, etc., notifying them of the illegality of reproducing a professional license and request they develop an alternative plan to verify the license of a practitioner.

**Public Comment:** Gary Schultz, Chief Academic Officer, Southern California University of Health Science, stated the Chiropractic Board provides verification of a person's license whether or not State has enforcement against the licensee. The Board and staff made reference to the Acupuncture Board's website which provides licensee lookup accessibility as a means to verify a licenses. Mr. Moffet questioned how much the professional associations were assisting to also get the information out to their members? Ms. Allen indicated the associations have been addressing these issues for some time and as editor of Acupuncture Today with 85% penetration of the market, she would consider starting an ethics column to discuss the issues and provide the Board with any assistance addressing the issue using the column or any other suggestions. Lloyd Wright indicated students in their last year are focusing on passing the exam and if the Board focused more on ethics issues in the exam, the schools would also in their examination review classes. Ron Zaidman, President, Five Branches Institute, suggested extrapolating the enforcement information, prepare a report for

publication and posting on the Board's website. Mr. Eng asked what is the procedure to publicize new requirements to the profession, such as the enforcement legislation when it becomes law? Ms. Nielsen indicated the licensees would be notified by mail in a newsletter and possibly current copies of the Acupuncture Practice Act, in addition, this information would be available on the Board's website. Ms. Allen suggested the regulatory changes be available in Chinese and Korean.

**c. DCA's Proposed Standards for Consumer Complaint Disclosure**

Ms. Nielsen explained the Board's current consumer disclosure policy, which is no disclosure is accessible to the public until an accusation has been filed against a licensee by the Attorney General's Office which is also the policy of most consumer boards in DCA. The Department's complaint disclosure policy is defining a uniform standard for all boards and has requested our Board evaluate it's current policy and procedures and adopt a policy which provides the most expedited release of information to the public. The proposed standards were distributed to all the associations, soliciting input into the proposal and inviting their participation in the public discussion at this Board meeting. Ms. Nielsen reported to date, there has been no response from the professional associations.

**Public Comment:** Marilyn Allen indicated in consideration of the practitioner's reputation, she feels that nothing should be disclosed until the case is final. Lloyd Wright stated accusations that have been disclosed could be detrimental for the licensee if found invalid. Mr. Eng stated, when the Board makes a recommendation there will be public discussion at a Board meeting to address the issues. The Board directed the executive officer to obtain copies of the written comments submitted to DCA regarding this issue and the minutes or notes from their public hearings, all of which were used to develop the Department's proposed standards. In addition the Board will consider the California Medical Board's "full disclosure" position.

**d. Use of Unlicensed Acupuncture Assistants – Survey to Licensees**

Ms. Nielsen reported a survey was mailed out to all licensees relating to the use of acupuncture assistants. As of June 20, 2002, 750 responses have been received and the general response was well received in support for the use of an assistant. The Board members questioned the survey, its relativity, how it was conducted and concern about possible disclosure. Ms. Nielsen explained staff took advantage of including the survey with the licensee's newsletter, which is the first mailing to all licensees within a year. In addition, the Joint Committee during the Board's sunset hearing raised this issue. The Joint Committee recommended the Board actively investigate whether licensees are utilizing assistants, and this was an opportunity to draft a questionnaire to begin the process to collect important information. Janelle Wedge, Administrative Coordinator, responded SB 1951 unfortunately only stated "acupuncture assistant" and that the Board was required by the JLSRC to compile information on what do acupuncturists consider to be assistants. This has been the first step to gather information for the Board to determine if it is a necessary component for a sub-license category recommendation. Ms. Hartsough stated for the record, that there is no "acupuncture assistant" which is why it's being researched to determine if such a position is necessary. Mr. Eng believes the profession needs to be educated to prevent illegal employment of assistants.

**Public Comment:** Tom Haines, Pacific College, indicated surveys conducted by the Board could reflect the compiled information disclosed by the profession as insufficient, if the questionnaire was interpreted incorrectly. Dr. Haines also suggested the schools could offer an acupuncture assistant certificate program providing students with options in this area. Marilyn Allen gave an example of the description of a chiropractic assistant, which include the operation of the business and office with no provision for assisting the chiropractor with patients. Ms. Allen states her patient management training classes do not have acupuncture assistants and her training is within the administration aspect of the field and a definition of

an acupuncture assistant is needed to provide a defined area in the profession. Raymond Victorio, American College Traditional Chinese Medicine, expressed his concerns about creating an acupuncture assistant. Mr. Victorio also had concerns for the students receiving a certificate and allowing them to begin to work alone, and how this would create all new standards and may create more problems or an economic impact on the profession. He suggested the Board thoroughly review this issue before taking action. Mr. Eng stated there are only two ways to proceed, either recommend legitimizing assistants through the regulatory process or that this practice continues to be illegal and the Board be more proactive to enforce it. Mr. Eng would like to follow up with a more comprehensive survey. Ms. Zhong-Fong suggested the survey also be in Korean and Chinese. Mr. Moffet suggests the language in the questionnaire should be less incriminating to the licensee and practice and their comments should be focused on their opinion. Lloyd Wright stated that at one time medical physicians wanted to instruct nurses to be trained on the job to perform as acupuncture assistants, which was eventually defeated. Mr. Wright believes this would be a disservice if allowed and thinks the public is unaware of the skill and knowledge the profession is required to have to perform these services. Mr. Wright request the Board to be very specific what restrictions, knowledge and skill the acupuncture assistant must be required to have if the Board determines to legitimize the use of assistants.

**5. Education Business - (Discussion/Action)**

**a. New School Applications and Pending Site Visits**

**1. Pacific College of OM, Chicago Campus**

Ms. Nielsen reported Joan Chang, L. Ac., has been assigned to Pacific College of Oriental Medicine, Chicago Campus site visit team, projected for August 2002.

**2. Seattle Institute of OM, Seattle, Washington (new)**

Ms. Nielsen indicated the licensed site visit team member for the visit to Seattle Institute of Oriental Medicine, Seattle, Washington, needs to be assigned. The visit is projected for November/December 2002.

**3. New England School of Acupuncture, Watertown, MA (new)**

Ms. Nielsen requested a licensed site visit team member be assigned to the New England School of Acupuncture, Watertown, Maine, visit projected for of April 2003. Ms. Nielsen suggested beginning the process to expanding the pool of licensees to help conduct school site visits. The new members of the pool would be provided with the Board's Site Visit Manual and be trained prior to being selected for a site visit.

**Public Comment:** Raymond Victorio, American College of Traditional Chinese Medicine, asked the Board if they would consider using other schools representatives for the site team pool similar to how ACAOM requires peer review with other school administrators participating?

**PEI LI ZHONG-FONG MOVED AND MICHAEL ENG SECONDED THE MOTION TO EXPAND THE POOL OF LICENSEES TO HELP CONDUCT SCHOOL SITE VISITS. THE BOARD WILL CONDUCT A TRAINING PROGRAM FOR THE NEW POOL OF SITE VISITORS.**

**AYES: PEI LI ZHONG-FONG, MICHAEL ENG, SHARI ASPLUND, HOWARD MOFFET MIN CHANG, JOAN CHANG**

**NOES: NONE**

**ABSENT: JUSTIN TIN**

**MOTION PASSED**

**b. China Externship Program Proposals**

**1. Five Branches Institute, Santa Cruz**

Ron Zaidman, President, CEO of Five Branches Institute, acknowledges and thanked the Board members and staff for their contribution to the profession. Mr. Zaidman briefly described Five Branches Institute's proposed externship. Mr. Zaidman requested approval of China externship program at the Zhejiang College of Traditional Chinese Medicine in Hangzhou in China. The Board had concerns for the students that have already applied for the externship program, for the integrity of the scope of practice in the program, and whether the students were concerned with malpractice insurance. Mr. Zaidman explained the students are aware the hours from the program are not guaranteed to be applied to their curriculum requirements at Five Branches unless approved by the Board. He assured the Board the integrity of the scope of practice is provided to all the externship students and is defined in Five Branches catalog. Ms. Zhong-Fong requested Mr. Zaidman submit a clear proposal with written description of supervised training, invite students to testify before the Board following the students return from the externship and provide the Board with copies of the teaching agreements defining supervised training and training within the scope of practice. Mr. Moffet expressed his concern that the school needs to submit their proposal to the Board for approval prior to commencing an externship program for the students to be able to apply the credit towards their curriculum program requirements. Ms. Nielsen indicated the applications are not pre-approved by staff but are submitted directly to the Board for approval. Ms. Nielsen recommended the Board approve Five Branches China Externship Program and require Five Branches to submit a full report following the conclusion of the externship and require reports from the students who participated.

**Public Comment:** Kathy White, Samra University of Oriental Medicine, spoke on her impression and experience with externship programs in China. Ms. White indicated she participated while attending Emperor's College of Traditional Oriental Medicine and headed the Samra University of Oriental Medicine externship program. Ms. White stated Samra had established a positive alliance with Beijing where the students experienced excellent clinical training that proved beneficial to the students. Ms. White also stated while attending Emperor's College in Shanghai that it had not been as positive an experience and the students' expectations had not been met due to the supervision of clinical director. However, both experiences had been an excellent training opportunity for the students while developing their confidence. Ms. Nielsen asked Mr. Zaidman if the students would be supervised at all times, his responses was, two people from Five Branches will be accompanying the group of students, to supervise and guarantee the integrity of the training. Mr. Zaidman agreed to provide the Board with the written description of supervised training, provide copies of the teaching agreements defining supervised training and training within California Scope of Practice. In addition, the students will be invited to testify to the Board upon their return.

**MICHAEL ENG MOVED AND JOAN CHANG SECONDED THE MOTION TO AUTHORIZE THE EXECUTIVE OFFICER TO REVIEW THE DOCUMENTS FIVE BRANCHES SUBMITS TO THE BOARD AND IF SHE FEELS THEY ARE IN COMPLIANCE AND ADDRESS THE AREAS OF CONCERN EXPRESSED BY THE BOARD TO HAVE THE AUTHORITY TO APPROVE FIVE BRANCHES CHINA EXTERNSHIP PROGRAM PROPOSAL PRIOR TO THE NEXT BOARD MEETING.**

**AYES: PEI LI ZHONG-FONG, MICHAEL ENG,  
HOWARD MOFFET, MIN CHANG, JOAN CHANG**

**NOES: SHARI ASPLUND**

**ABSENT: JUSTIN TIN**

## **MOTION PASSED**

Ms. Zhong-Fong presented a certificate of Appreciation to Ron Zaidman for his dedication and participation with the Competencies and Outcome Task Force.

### **2. China International Medical University's Revised Proposal, LA**

Jianfu Jiang, L. Ac., President, Shelley Han, Assistant Dean, Yung Kim, Intern, representatives of CIMU, introduced themselves. Ms. Han reported all the Board's concerns have been met and addressed in their written report to the Board. CIMU requested Board approval of the proposed externship program in Shanghai University of Traditional Chinese Medicine. CIMU will present a report to the Board at the conclusion of the China externship. In addition, CIMU will provide copies of the five students weekly written reports for the Board to review.

**SHARI ASPLUND MOVED AND JOAN CHANG SECONDED THE MOTION TO APPROVE CHINA INTERNATIONAL MEDICAL UNIVERSITY'S SUMMER 2002 EXTERNSHIP PROPOSAL WITH SHANGHAI UNIVERSITY OF TRADITIONAL CHINESE MEDICINE.**

**AYES: PEI LI ZHONG-FONG, MICHAEL ENG, SHARI ASPLUND, HOWARD MOFFET MIN CHANG, JOAN CHANG**

**NOES: NONE**

**ABSENT: JUSTIN TIN**

**MOTION PASSED**

Mr. Eng suggested the Board develop standardized application forms for schools to use when applying for externship programs.

### **c. School Application/Approval Process**

#### **1. Review of Statutory and Regulation Requirements for California Board Approval**

Ms. Nielsen reviewed the process of establishing standards for approving schools and training programs under Article 2, Section 4938, 4939 of the Business and Professions Code. and Article 3.5 Section 1399.439 of the California Code of Regulations. This allows the Board full authority to approve schools including China and other externship programs.

#### **2. Board's School Application and Site Visit Process – M. Nielsen and N. Molinar**

Ms. Nielsen reviewed and explained the school application and site visit process with the Board. She also reviewed the Site Visit Manual, which defines the standards an institution must meet in order to be approved. The standards ensure that an institution approved by the Board has received a full review and assessment of their program and operations. She reviewed the twelve subject areas addressed by the Site Visit Manual, (1) institutional mission, vision and purpose, (2) governance, administration, and personnel, (3) ethical principals, practices, and advertising, (4) acupuncture and Oriental medicine curriculum and instruction, (5) admission standards, (6) graduation requirements, (7) faculty qualifications, (8) student services and records, (9) tuition, fees, and refund policies, (10) facilities and library, (11) financial aid, and (12) financial resources.

#### **3. Testimony from Other Site Visit Team Members**

Lloyd Wright, former Board member, thanked the Board for their dedication and hard work. Mr. Wright explained with his experience he believes the site visits he participated in for the Board were very extensive and comprehensive and are very comparable with the visits he has performed for ACAOM. Mr. Wright suggested developing an independent pool of committed and trained individuals and licensees to draw upon as well as Board members.

#### **4. Testimony from Board Approved Schools**

Gary Schultz, Southern California University of Health Sciences, Chief Academic Officer, recognizes and appreciates the Board's school approval process. He believes the Board is an educational device for improving curriculum and schools can gauge themselves by the high standards of the California Acupuncture Board. Ms. Nielsen asked Mr. Schultz in considering the Board's requirements, what level of review would encompass the entire scope of a school and overall would one review be sufficient? Mr. Schultz replied this would depend on the scope and intent of those reviews and that he has found each review tends to focus on different issues, however the State Board's review is somewhat redundant in review of the administration and could be easily absorbed through the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM). SCUHS is regionally approved by WASC, however Mr. Schultz informed the Board they have applied to ACAOM also. Mr. Wright concurred that ACAOM site visit standards and evaluations are similar to California's standards, but the Board is also evaluating the integration of California curriculum requirements and scope of practice. Mr. Moffet stated he understood ACAOM evaluations address both their standards plus the standard of the state the institution resides in. California leads in most areas and sets a very high standard, which makes the requirements for an additional review process a worthwhile public policy.

**HOWARD MOFFET MOVED TO ADD THE FOLLOWING  
REQUIREMENT AS A CONDITION OF OBTAINING OR  
MAINTAINING CALIFORNIA BOARD APPROVAL:  
ACCREDITATION OR CANDIDACY BY AN AGENCY  
RECOGNIZED BY THE UNITED STATES SECRETARY OF  
EDUCATION TO ACCREDIT PROGRAMS IN ACUPUNCTURE  
AND ORIENTAL MEDICINE.  
FULL AND FINAL APPROVAL AUTHORITY WILL CONTINUE  
TO BE A FUNCTION OF THE ACUPUNCTURE BOARD.**

**NO SECOND  
MOTION FAILED**

**5. BPPVE Representative Marcia Trott, Postsecondary Education Analyst**

Ms. Trott made a point of clarification for the Board, accreditation starts with State approval, which is part of the requirements of the United States Department of Education (USDE). The USDE approves accreditation entities such as ACAOM. However before a school applies for and obtains accreditation, a school or program is required to be State approved, therefore, BPPVE is gate keeper of accreditation. Mr. Eng asked Ms. Trott for a clarification between "school approval and accreditation". She responded the California BPPVE uses an accreditation model, however BPPVE does not accredit, they approve. BPPVE performs a sixteen point quantitative review based on paper review and qualitative review based on peer review process.

**6. ACAOM Representative Penelope Ward, Director, Professional Services**

Ms. Ward reported that accreditation is a process of external peer review that meets certain established and nationally accepted standards for quality education and training. This is used throughout higher education for specialized professional education and assures institutions and programs meet basic standards of education. Ms. Ward explained the schools and programs should provide the students with a mission, other than how to pass an exam, but to insure that the institution would provide quality education from experienced and invested members of the faculty. Mr. Eng asked, if she felt there should be a mandate to require that all schools be accredited? Personally, Ms. Trott's responded, students should only attend accredited institutions. Ms. Ward suggested the Board could utilize the accreditation to be part of their approval process. Mr. Moffet indicated the initial school approval in California maybe comparable to a ACAOM accreditation, but subsequent to that an accreditation requires a three to five year self study, site visit and peer review process



while California's only ongoing review process is submission of an annual report. Ms. Ward suggested the Board consider accreditation, primarily for out-of-state schools, providing fewer burdens placed upon California and assuring a continuous review process.

**6. Public Comment Period:**

Raymond Victorio indicated he has been a site visit team member WASC and ACAOM. He believes there is a shift that occurs for an educational institution where the principles of higher education are raised which creates an educational effectiveness that the student benefits from. Mr. Victorio indicated the continuous re-accreditation process of the institution allows another level of oversight. Ms. Ward questioned whether the California curriculum regulations require a student to make a western diagnosis? Ms. Asplund stated the regulations for clinical training state the curriculum shall include "Diagnosis and evaluation—the application of Eastern and Western diagnostic procedures in evaluating patients."

**7. Adjournment**

The Acupuncture Board meeting was adjourned at approximately 5:20 p.m.

# California Acupuncture Board

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State of California  
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(Approved September 25, 2002)

## ACUPUNCTURE BOARD MEETING MINUTES

**June 24-25, 2002**

The Sportsmen's Lodge Hotel  
12825 Ventura Boulevard  
Studio City, California 91604

**Tuesday June 25, 2002  
8:30 AM – 5:00 PM**

### **MEMBERS PRESENT**

Pei Li Zhong-Fong, L.Ac., Chair  
Michael Eng, Vice Chair  
Shari Asplund  
Joan C. Chang, L.Ac.  
Howard Moffet, L.Ac.  
Min M. Chang  
Justin Tin, D.D.S

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Don Chang, Legal Counsel  
Janelle Wedge, Administrative Coordinator  
Nancy Molinar, Education Coordinator  
Christie Dohring, Examination Coordinator  
Kerry Hartsough, Enforcement Coordinator  
Helen Gathercole, Administrative Technician

### **MEMBERS ABSENT**

### **GUEST LIST ON FILE**

#### **1. Call to Order and Establishment of a Quorum (Pei-Li Zhong-Fong, Chair)**

Pei Li Zhong-Fong called the Acupuncture Board meeting to order at approximately 8:50 a.m., roll was taken and a quorum established.

#### **2. Chair's Report – Pei-Li Zhong Fong**

Ms. Zhong-Fong thanked the Board members for their dedication. She wanted to remind the members to prepare for the issues by reviewing the materials and history on each item of the agenda prior to the meetings. This would allow for processing decisions and actions more efficiently and expediently.

#### **3. Executive Officer's Report – Marilyn Nielsen**

Ms. Nielsen congratulated Joan Chang on her unanimous April 22, 2002, Senate Confirmation. The staff's annual off-site planning session was held in May 2002. Staff primarily focused on reviewing the Board's regulations and program requirements. A meeting with Legal Counsel will be scheduled to review the final proposed draft language changes and should be ready to present to the Board for consideration by the November Board meeting. The licensee's newsletter was completed and mailed to all licensees in June 2002. Staff's goal is to compose and distribute the newsletter twice a year. Ms. Nielsen reported since the March Board meeting the Board's consumer brochures have been distributed to all professional associations, approved acupuncture schools, and all licensees. Copies are also available on the Board's website. The feedback on the brochures has been positive and very complimentary and the licensees' response

of ordering more brochures has been tremendous. Ms. Nielsen indicated the lease is up by the end of the year on the Howe Avenue office. There has been an ongoing discussion with the Department for the need for additional space plus to allow for a four-year growth projection. Based on a "needs assessment," which reflects needs for double the space, the necessary documents to move have been completed and filed with the Department. Adequate office space was found in the same complex with Respiratory Care Board and DCA's Division of Investigations, off Richards Boulevard, and the Board may relocate around the first of the year. Ms. Nielsen reported that she would participate as a panel member at the CSOMA International Expo and Convention on August 9<sup>th</sup>, 2002 in San Francisco. Other panel members include Brian Fennen, Howard Kong, David Molony, William Prensky, Carlo Wilson and Pamela Lee. The panel was established to provide an interactive audience/panel discussion on "changes and challenges" facing Oriental medicine today and how they affect practice and the practitioner's role as a primary health care professional. As part of the Board's Strategic Objective 3.5, the Board staff is planning on having an information booth at CSOMA's spring 2003 convention and other conferences/seminars. Ms. Nielsen indicated Kerry Hartsough and Robin Saenz participated in the San Diego Better Business Bureau's annual fraud prevention seminar "ScamJam". Ms. Hartsough reported the event was well attended, 2,000 to 2,500 people with 50 representing agencies from city to federal level. The Acupuncture Board's booth had considerable amount of traffic. People were interested and had questions concerning insurance coverage and general acupuncture concerns. Ms. Hartsough indicated it was a good source of education for public awareness and the public response was excellent. Ms. Nielsen indicated the schools put on school fairs for current and prospective students, which would also be a good opportunity to outreach and distribute information regarding the Board's laws, regulations and procedures, in addition to answer any questions the students may have.

#### **4. Approval of March 11-12, 2002 Meeting Minutes**

**MICHAEL ENG MOVED AND HOWARD MOFFET SECONDED THE MOTION TO APPROVE THE MARCH 11-12, 2002 MINUTES, AS AMENDED.  
MOTION PASSED UNANIMOUSLY**

#### **5. Approval of May 13, 2002 Meeting Minutes**

**SHARI ASPLUND MOVED AND MIN CHANG SECONDED THE MOTION TO APPROVE THE MAY 13, 2002 MINUTES, AS AMENDED AND AUTHORIZED THE EXECUTIVE OFFICER TO MAKE THE AMENDMENT TO THE MINUTES, E-MAIL THE FINAL MINUTES TO THE MEMBERS FOR THEIR REVIEW AND COMMENTS. IF ANY MEMBER HAS CONCERNS WITH THE FINAL E-MAILED MINUTES THEY WILL BE HELD FOR DISCUSSION AT THE NEXT BOARD MEETING.**

**AYES: PEI LI ZHONG-FONG, MICHAEL ENG,  
SHARI ASPLUND, MIN CHANG,  
JOAN CHANG, JUSTIN TIN**

**NOES: HOWARD MOFFET  
MOTION PASSED**

## **6. Examination Business (Discussion/Action)**

### **a. July 17, 2002 Licensing Examination**

Ms. Nielsen reported the July 17 licensing exam is in the final stage and has gone to print. There are 662 candidates consisting of 353 English, 193 Chinese and 116 Korean. Ms. Dohring reported the Korean count has decreased because more are taking the exam in English. Ms. Nielsen reported a final report with the conclusion and statistics will be given to the Board at the September meeting. Ms. Nielsen expressed her appreciation to the examination staff, Christie Dohring, Examination Coordinator, and Sylvia Clay, Examination Technician for their dedication and thoroughness in reviewing candidate applications and implementing the new special accommodation requirements. Board member Min Chang inquired as to whether or not she might attend the exam? Ms. Nielsen replied yes, any Board member could attend, but CPS needs to be notified prior to the exam so security badges and sign-in documents can be prepared in advance.

## **7. Competencies Task Force Committee Report - Proposal to Amend CCR Section 1399.436 Educational Curriculum Hour Requirements (Discussion/Action)**

Ms. Zhong-Fong indicated Dr. Gary Klapman, Chair of the Competencies Task Force submitted the final report to the Board. The Board commended the Task Force members for all their dedication and support.

### **a. Presentation of Certificates of Appreciation to Members of the Task Force**

Ms. Zhong-Fong expressed the Board's appreciation to all the members of the Competencies Task Force Committee for their outstanding contribution to the process. She presented a Certificate of Appreciation to the members present at this meeting; Kuk Yul Choi, Shari Asplund, Raymond Victorio, Tom Haines, Min Chang, Yi-Chun Hsieh, Lloyd Wright, Ron Zaidman and Neal Miller. Certificates will be mailed to those members unable to attend this meeting.

### **b. Final Report and Recommendations**

Ms. Asplund reported Dr. Klapman prepared the Task Force final report and believes the meetings were a good opportunity to bring together ideas and exchange information. During the course of the meetings the Task Force developed a good comprehensive agreement. Mr. Haines expressed his concerns that the outcome focused on domains rather than competencies. The Board needs to develop a better-defined scope of practice because the discussion focal point was based on western diagnosis and should be included in curriculum, but was not addressed. There was access to the Occupational Analysis, but was not integrated in the report and Mr. Haines believes the Task Force failed to identify knowledge, skills and abilities for the practitioners. Mr. Haines indicated if a core set of values for the profession were identified from the scope of practice, the hours could be placed in a more efficient manner and had he had prior access to the release of Dr. Klapman's report he would have addressed this issue. He continued to state, if the Board is going to base the examination on the Occupational Analysis, then the schools need to teach those competencies. He felt there was an umbrella of foundation that isn't reflected in the Occupational Analysis. Mr. Haines believes the professional and college members worked very well together, but had a process that would not allow a good outcome. Lloyd Wright indicated this is not a new issue, back in 1993 the principles of western diagnosis had been discussed numerous times by the Board. He stated under the workers compensation system it is clear what the legal requirements are as well as the Board's laws and regulation and the labor codes, the practitioner must perform standardized testing and evaluations to function within the western world and medical system. Mr. Wright commented on an article he wrote in Acupuncture Today's January 2000 issue, where he had performed research on hours based on basic clinical training in other professions for western diagnosis, which the hours for basic western medical science varied. He found that Naturopathic had 1,685 hours,

Medical Doctors had 1,279 hours, Chiropractic had 2,614 hours and Acupuncture at that time was 316 hours. Mr. Wright believes that if the practitioners are going to practice in this country a general understanding is required between the profession and all medical fields. Gary Schultz informed the Board the entire health service industry continues to struggle with the metric of hours of competencies, and has come to the realization the essence of competency is not so much as contact hours or attendance, but volume and variety of experience and assessments. Mr. Schultz believes it is one step in an evolutionary chain of events that this Board will take a firm leadership position in. The industry is in a state of flux and if the Board demonstrates an internal consensus this will avoid historical problems. Mr. Schultz stated he believes in a strong, broad well-articulated scope of practice in any medical field and the educational institutions needs to take a leadership roll defending the depth of what the scope of practice is. He advises the Board not to address the issue of how much of western diagnosis are taught, but to help define the scope of practice and allow the institutions to determine how it is taught. Mr. Schultz urged the Board not to be satisfied with 3,000 hours; it has no meaning to it, but proceed to the next level making domains meaningful. Mr. Moffet stated the question is an acupuncturist may or may not be required to use western diagnosis in their practice for oriental medicine, but if they are communicating with the health care systems, the practitioner should know western diagnosis. Mr. Moffet states this is a core issue and needs to be resolved and believes the practitioner may make western diagnosis within their competency. It is necessary to communicate with other people and health care systems. He wanted to thank the Task Force for their time and effort and that it was a good start, however he thought when the most common diagnosis is pain management, the Task Force should have a document included in this report, what employers require when they employ acupuncturists. Mr. Moffet had concerns there was not an overall agreement with the final report and wanted to know if any of the Task Force members are satisfied. Mr. Wright responded by stating there was a consensus of the group and believes there was a tremendous amount of agreement. Mr. Haines concurred with Mr. Wright and stated it was unfortunate the dialog between the profession and schools was not captured regarding the current curriculum that is lacking in the schools. Ms. Allen indicated in the acupuncture field, the primary reason for malpractice is failure to diagnose. With the number of complaints based on pain management issues and for the acupuncturist to be paid through a third party, they must make a diagnosis. Ms. Allen indicated if there was a limit of the ability of the Oriental medical provider to diagnose it would relegate them to a technician to depend upon on another's diagnosis. Kuk Yul Choi indicated diagnosis is very difficult to do and believes Oriental medicine is better for the patient than western medicine. Ms. Zhong-Fong stated the most important aspect in regards to diagnosis is the patients' safety, and treatment can not be performed without proper diagnosis. The understanding of western diagnosis is very important for the safety of the patient and for licensed acupuncturists when working with other health care providers. Ms. Zhong-Fong believes the western diagnosis should be taught with Oriental medicine.

**SHARI ASPLUND MOVED AND JOAN CHANG SECONDED THE MOTION TO ADOPT COMPETENCIES TASK FORCE APRIL 24, 2002 FINAL REPORT AND RECOMMENDATIONS, INCLUDING THE WORKSHEET REFLECTING THE MEETING-BY-MEETING RANGES/HOURS DISCUSSED.**

**AYES: PEI LI ZHONG-FONG, MICHAEL ENG, SHARI ASPLUND, MIN CHANG, JOAN CHANG, HOWARD MOFFET**

**NOES: NONE**

**ABSENT: JUSTIN TIN**

**MOTION PASSED**

**c. Perform Comparison of Task Force Competencies and 2001 Occupational Analysis**

Ms. Nielsen explained when the Board adopted the 2001 Occupational Analysis copies were sent to all the Competency Task Force members for their use. Four of the members agreed they would do the comparison and bring a report back to the Task Force, however, a full review and comparison between the competencies defined by the Task Force and 2001 Occupational Analysis has never occurred. Ms. Nielsen recommended if the Board is going forward with the data from this document in a regulatory package the Board should perform a comparison to determine all competencies are defined. The Board concurred and directed Ms. Nielsen to contact OER to inquire if OER, utilizing subject matter experts (SMEs), could perform a comparative analysis of the Competencies Task Force April 24, 2002 final report and recommendations against the 2001 Occupational Analysis.

**8. Administrative Business – (Discussion/Action)**

**a. 2003/2004 Budget Change Proposals – Attorney Generals and Enforcement Office Technician**

Ms. Nielsen requested the Board authorize the executive officer to amend the 2003/2004 BCP to reflect the cost to cover the cases held at the AG's office and at the Board office from current fiscal year, which was not covered in the Board's original authorization. Mr. Eng asked if this authorization includes covering additional cases? Ms. Nielsen replied, yes, all the cases being held by the AG's office and at the Board office.

**MICHAEL ENG MOVED AND SHARI ASPLUND SECONDED THE MOTION TO AUTHORIZE THE EXECUTIVE OFFICER TO AMEND THE 2003/2004 BCP FOR ATTORNEY GENERAL COSTS TO INCLUDE THE FUNDS NECESSARY FOR A ONE TIME AUGMENTATION TO COVER THOSE CASES HELD AT THE ATTORNEY GENERAL'S AND BOARD OFFICE IN PRIOR YEAR.**

**AYES: PEI LI ZHONG-FONG, MICHAEL ENG, SHARI ASPLUND, MIN CHANG, JOAN CHANG, HOWARD MOFFET**

**NOES: NONE**

**ABSENT: JUSTIN TIN**

**MOTION PASSED**

**b. 2002 Strategic Plan**

Mr. Eng expressed concern about the impending target dates reflected in the plan and the Board committees will need to address the issues with approaching target dates.

**MICHAEL ENG MOVED AND HOWARD MOFFET SECONDED  
THE MOTION TO ADOPT THE FINAL 2002-2003 STRATEGIC  
PLAN.  
MOTION PASSED UNANIMOUSLY**

Mr. Eng expressed his appreciation and wanted to commend the Board for the Strategic Plan and the director's Strategic Plan for Consumer Affairs. In Mr. Eng's opinion the Board has dedicated itself and has accomplished a lot with a spirit of compromise and he appreciated the efforts of Raymond Victorio.

**c. Legislative Status Report**

Ms. Nielsen reported briefly on the following legislative bills:

1. Board's 2002 Legislative Proposals, amending B&P Code Sections 4935, 4938.2, 4955, 4955.1, 4955.2, 4960.5, and 4977.2 – were reported to the Board on June 24, 2002, item #3, Sunset Review and SB 1951.
2. SB 573 (Burton) – amending Health & Safety Code Section 1373.10 and Insurance Code Sections 10127.3 and 10176 – is scheduled for hearing today in the Assembly Health Committee.
3. SB 1244 (Figueroa) – relating to Governor appointments to consumer boards – is also scheduled for hearing today in Assembly Health Committee.
4. SB 1705 (Burton) – amending 139.2 and California Labor Code Section 3209.3 – is scheduled for hearing on June 26, 2002 in Assembly Health Committee.
5. SB 2059 (Figueroa) – relating to disclosure of licensee information – was scheduled for Assembly B&P June 18, 2002, but the hearing was postponed by the Committee and rescheduled for today.
6. AB 1943 (Chu) - amending B&P Code Section 4939 and adds Section 4965.5 – was amended in the Senate June 17, 2002 and rescheduled for a hearing with the Senate B&P on July 1, 2002.
7. AB 2634 (J.Campbell) – regarding Governor appointments – is waiting to be scheduled in the Assembly B&P.

**9. Public Comment Period:**

Neal Miller, L. Ac., asked the Board to consider developing a Task Force on continuing education and this would be in the best interest of the profession and consumer. Regardless of the outcome of AB 1943 it is clear there are deficiencies in the education process, and if there was an open discussion with the profession, schools and the Board to address these issues this would upgrade the level of the profession. Mr. Miller representing the Sherman Oaks Chamber of Commerce presented the Board with a pool lounge to welcome the Board and in appreciation for their dedication to the community, consumers and profession. Tony Kuo, UCLA Department of Family Medicine, working with Kevin McNamee, stated he is a member of a research team whose goal is a statewide survey focusing on acupuncturist training and practices. Which is scheduled to be released practicing licensed acupuncturist by late summer. The final report is scheduled to be distributed by late fall 2002.

**BUSINESS WAS CONCLUDED HOWARD MOFFET MOVED AND MICHAEL ENG  
SECONDED THE MOTION FOR ADJOURNMENT.**

**10. Adjournment**

The Acupuncture Board meeting was adjourned at approximately 12:20 p.m.